

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE
SENATE BILL NO. 635
96TH GENERAL ASSEMBLY

5139H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 30.270, 228.368, 339.1115, and 362.333, RSMo, and to enact in lieu thereof seven new sections relating to financial transactions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 30.270, 228.368, 339.1115, and 362.333, RSMo, are repealed and
2 seven new sections enacted in lieu thereof, to be known as sections 30.270, 228.341, 228.368,
3 228.369, 228.374, 339.1115, and 362.333, to read as follows:

30.270. 1. For the security of the moneys deposited by the state treasurer pursuant to the
2 provisions of this chapter, the state treasurer shall, from time to time, submit a list of acceptable
3 securities to be approved by the governor and state auditor if satisfactory to them, and the state
4 treasurer shall require of the selected and approved banks or financial institutions as security for
5 the safekeeping and payment of deposits, securities from the list provided for in this section,
6 which list shall include only securities of the following kind and character, unless it is
7 determined by the state treasurer that the use of such securities as collateral may place state
8 public funds at undue risk:

- 9 (1) Bonds or other obligations of the United States;
- 10 (2) Bonds or other obligations of the state of Missouri including revenue bonds issued
11 by state agencies or by state authorities created by legislative enactment;
- 12 (3) Bonds or other obligations of any city in this state having a population of not less
13 than two thousand;
- 14 (4) Bonds or other obligations of any county in this state;
- 15 (5) Approved registered bonds or other obligations of any school district, including
16 certificates of participation and leasehold revenue bonds, situated in this state;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 (6) Approved registered bonds or other obligations of any special road district in this
18 state;
- 19 (7) State bonds or other obligations of any state;
- 20 (8) Notes, bonds, debentures or other similar obligations issued by the farm credit banks
21 or agricultural credit banks or any other obligations issued pursuant to the provisions of an act
22 of the Congress of the United States known as the Farm Credit Act of 1971, and acts amendatory
23 thereto;
- 24 (9) Bonds of the federal home loan banks;
- 25 (10) Any bonds or other obligations guaranteed as to payment of principal and interest
26 by the government of the United States or any agency or instrumentality thereof;
- 27 (11) Bonds of any political subdivision established pursuant to the provisions of section
28 30, article VI of the Constitution of Missouri;
- 29 (12) Tax anticipation notes issued by any county of the first classification;
- 30 (13) A surety bond issued by an insurance company licensed pursuant to the laws of the
31 state of Missouri whose claims-paying ability is rated in the highest category by at least one
32 nationally recognized statistical rating agency. The face amount of such surety bond shall be at
33 least equal to the portion of the deposit to be secured by the surety bond;
- 34 (14) An irrevocable standby letter of credit issued by a Federal Home Loan Bank
35 [possessing the highest rating issued by at least one nationally recognized statistical rating
36 agency];
- 37 (15) Out-of-state municipal bonds, including certificates of participation and leasehold
38 revenue bonds, provided such bonds are rated in the highest category by at least one nationally
39 recognized statistical rating agency;
- 40 (16) (a) Mortgage securities that are individual loans that include negotiable promissory
41 notes and the first lien deeds of trust securing payment of such notes on one to four family real
42 estate, on commercial real estate, or on farm real estate located in Missouri or states adjacent to
43 Missouri, provided such loans:
- 44 a. Are underwritten to conform to standards established by the state treasurer, which are
45 substantially similar to standards established by the Federal Home Loan Bank of Des Moines,
46 Iowa, and any of its successors in interest that provide funding for financial institutions in
47 Missouri;
- 48 b. Are offered by a financial institution in which a senior executive officer certifies under
49 penalty of perjury that such loans are compliant with the requirements of the Federal Home Loan
50 Bank of Des Moines, Iowa, when such loans are pledged by such bank;
- 51 c. Are offered by a financial institution that is well capitalized; and

52 d. Are not construction loans, are not more than ninety days delinquent, have not been
53 classified as substandard, doubtful, or subject to loss, are one hundred percent owned by the
54 financial institution, are otherwise unencumbered and are not being temporarily warehoused in
55 the financial institution for sale to a third party. Any disqualified mortgage securities shall be
56 removed as collateral within ninety days of disqualification or the state treasurer may disqualify
57 such collateral as collateral for state funds;

58 (b) The state treasurer may promulgate regulations and provide such other forms or
59 agreements to ensure the state maintains a first priority position on the deeds of trust and
60 otherwise protect and preserve state funds. Any rule or portion of a rule, as that term is defined
61 in section 536.010, that is created under the authority delegated in this section shall become
62 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
63 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
64 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
65 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
66 rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid
67 and void;

68 (c) A status report on all such mortgage securities shall be provided to the state treasurer
69 on a calendar monthly basis in the manner and format prescribed by the state treasurer by the
70 financial institutions pledging such mortgage securities and also shall certify their compliance
71 with subsection 2 for such mortgage securities;

72 (d) In the alternative to paragraph (a) of this subdivision, a financial institution may
73 provide a blanket lien on all loans secured by one to four family real estate, all loans secured by
74 commercial real estate, all loans secured by farm real estate, or any combination of these
75 categories, provided the financial institution secures such blanket liens with real estate located
76 in Missouri and states adjacent to Missouri and otherwise complies with paragraphs (b) and (c)
77 of this subdivision;

78 (e) The provisions of paragraphs (a) to (d) of this subdivision are not authorized for any
79 Missouri political subdivision, notwithstanding the provisions of chapter 110 to the contrary;

80 (f) As used in this subdivision, the term "unencumbered" shall mean mortgage securities
81 pledged for state funds as provided in subsection 1 of this section, and not subject to any other
82 express claims by any third parties, including but not limited to a blanket lien on the bank assets
83 by the Federal Home Loan Bank, a depositary arrangement when securities are loaned and
84 repurchased daily or otherwise, or the depositary has pledged its stock and assets for a loan to
85 purchase another depositary or otherwise; and

86 (g) As used in this subdivision, the term "well capitalized" shall mean a banking
87 institution that according to its most recent report of condition and income or thrift financial

88 report, publicly available as applicable, qualifies as well capitalized under the uniform capital
89 requirements established by the federal banking regulators or as determined by state banking
90 regulators under substantially similar requirements;

91 (17) Any investment that the state treasurer may invest in as provided in article IV,
92 section 15 of the Missouri Constitution, and subject to the state treasurer's written investment
93 policy in section 30.260, that is not otherwise provided for in this section, provided the banking
94 institution or eligible lending institution as defined in subdivision (10) of section 30.750 is well
95 capitalized, as defined in subdivision (16) of this subsection. The provisions of this subdivision
96 are not authorized for political subdivisions, notwithstanding the provisions of chapter 110 to
97 the contrary.

98 2. Securities deposited shall be in an amount valued at market equal at least to one
99 hundred percent of the aggregate amount on time deposit as well as on demand deposit with the
100 particular financial institution less the amount, if any, which is insured either by the Federal
101 Deposit Insurance Corporation or by the National Credit Unions Share Insurance Fund.
102 Furthermore, for a well-capitalized banking institution, securities authorized in this section that
103 are:

104 (1) Mortgage securities on loans secured on one to four family real estate appraised to
105 reflect the market value at the time of the loan and deposited as collateral shall not exceed one
106 hundred twenty-five percent of the aggregate amount of time deposits and demand deposits;

107 (2) Mortgage securities on loans secured on commercial real estate or on farm real estate
108 appraised to reflect the market value at the time of the loan and deposited as collateral shall not
109 exceed the collateral requirements of the Federal Home Loan Bank of Des Moines, Iowa;

110 (3) United States Treasury securities and United States Federal Agency debentures issued
111 by Fannie Mae, Freddie Mac, the Federal Home Loan Bank, or the Federal Farm Credit Bank
112 valued at market and deposited as collateral shall not exceed one hundred five percent of the
113 aggregate amount of time deposits and demand deposits. All other securities, except as noted
114 elsewhere in this section valued at market and deposited as collateral shall not exceed one
115 hundred fifteen percent of the aggregated amount of the time deposits and demand deposits; and

116 (4) Securities that are surety bonds and letters of credit authorized as collateral need only
117 collateralize one hundred percent of the aggregate amount of time deposits and demand deposits.

118 3. The securities or book entry receipts shall be delivered to the state treasurer and
119 receipted for by the state treasurer and retained by the treasurer or by financial institutions that
120 the governor, state auditor and treasurer agree upon. The state treasurer shall from time to time
121 inspect the securities and book entry receipts and see that they are actually held by the state
122 treasury or by the financial institutions selected as the state depositories. The governor and the
123 state auditor may inspect or request an accounting of the securities or book entry receipts, and

124 if in any case, or at any time, the securities are not satisfactory security for deposits made as
125 provided by law, they may require additional security to be given that is satisfactory to them.

126 4. Any securities deposited pursuant to this section may from time to time be withdrawn
127 and other securities described in the list provided for in subsection 1 of this section may be
128 substituted in lieu of the withdrawn securities with the consent of the treasurer; but a sufficient
129 amount of securities to secure the deposits shall always be held by the treasury or in the selected
130 depositaries.

131 5. If a financial institution of deposit fails to pay a deposit, or any part thereof, pursuant
132 to the terms of its contract with the state treasurer, the state treasurer shall forthwith convert the
133 securities into money and disburse the same according to law.

134 6. Any financial institution making deposits of bonds with the state treasurer pursuant
135 to the provisions of this chapter may cause the bonds to be endorsed or stamped as it deems
136 proper, so as to show that they are deposited as collateral and are not transferable except upon
137 the conditions of this chapter or upon the release by the state treasurer.

**228.341. For purposes of sections 228.341 to 228.374, "private road" with regard
2 to a proceeding to obtain a maintenance order means any private road established under
3 this chapter or any easement of access, regardless of how created, which provides a means
4 of ingress and egress by motor vehicle for any owner or owners of residences from such
5 homes to a public road. A private road does not include any road owned by the United
6 States or any agency or instrumentality thereof, or the state of Missouri, or any county,
7 municipality, political subdivision, special district, instrumentality, or agency of the state
8 of Missouri. Nothing in sections 228.341 to 228.374 shall be deemed to apply to any road
9 created by or included in any recorded plat referencing or referenced in an indenture or
10 declaration creating an owner's association, regardless of whether such road is designated
11 as a common element. Nothing in sections 228.341 to 228.374 shall be deemed to apply to
12 any land or property owned or operated by any railroad regulated by the Federal Railroad
13 Administration.**

228.368. The costs of the proceedings **to establish or widen a private road** incurred
2 up to and including the filing of the commissioners' report shall be paid by the plaintiff; and the
3 court, as to any costs incurred in proceedings subsequent thereto, including the costs of the jury
4 trial, may make such order as in its discretion may be deemed just, **including, in the case of a
5 proceeding to obtain a maintenance order, assessing the costs to all benefitted homeowners.**

**228.369. 1. For any private road subject to the use of more than one homeowner,
2 in the absence of a prior order or written agreement for the maintenance of the private
3 road, including covenants contained in deeds or state or local permits providing for the
4 maintenance of a private road, when adjoining homeowners who are benefitted by the use**

5 of an abutting private road, or homeowners who have an easement to use a private road,
6 collectively owners or benefitted owners are unable to agree in writing upon a plan of
7 maintenance for the maintenance, repair, or improvement of the private road and
8 including the assessment and apportionment of costs for the plan of maintenance, one or
9 more of the owners may petition the circuit court for an order establishing a plan of
10 maintenance.

11 2. The cost of a plan of maintenance for a private road shall be apportioned among
12 the owners of residences abutting the private road and holders of easements to use the
13 private road, with the cost apportioned commensurate with the use and benefit to
14 residences benefitted by the access, as mutually agreed by the benefitted homeowners or
15 as ordered by the court with such method of apportionment as agreed by the homeowners
16 or ordered by the court, including, but not limited to, equal division, or proportionate to
17 the residential assessed value, or to front footage, or to usage or benefit.

18 3. The court may implement the same procedures to order and subsequently
19 determine a plan of maintenance for a private road as provided in this chapter for
20 establishing or widening a private road, including the apportionment and compensation
21 of disinterested commissioners to determine the plan and the apportionment of costs.

22 4. Where the homeowners who are benefitted by the private road are not able to
23 agree upon the designation of a supervisor to complete the plan of maintenance, the
24 commissioners appointed by the court shall designate a supervisor who shall be
25 compensated for his or her services in the same manner as the commissioners.

26 5. Any agreement executed by all the homeowners, or final order approving, a plan
27 of maintenance for a private road shall be recorded with the county recorder of deeds.

28 6. One or more adjoining homeowners or holders of any easement to use a private
29 road may bring an action to enforce the plan of maintenance for a private road, whether
30 as mutually agreed or as ordered by the court.

228.374. 1. A prior agreement or court order establishing a plan of maintenance
2 may be amended or modified and may be restated at any time by a recorded agreement
3 signed by all the homeowners or other benefitted owners.

4 2. No court proceeding under section 228.369 to amend, modify, or restate a plan
5 of maintenance may be filed sooner than seven years from the entry of a prior order,
6 except upon a prima facie showing that the real property benefitted by the private road has
7 been developed or divided in a manner rendering the plan of maintenance obsolete or
8 showing that the existing apportionment of the use and benefit to residences benefitted by
9 the access to the private road is no longer equitable.

339.1115. Sections 339.1100 to 339.1240 shall not apply to:

2 (1) The performance of services as an appraisal firm;

3 (2) A national or state bank, federal or state savings institution, or credit union that is
4 subject to direct regulation or supervision by an agency of the United States government, or by
5 the department of insurance, financial institutions or professional registration, that receives a
6 request for the performance of an appraisal from one employee of the financial institution, and
7 another employee of the same financial institution assigns the request for the appraisal to an
8 appraiser who is an independent contractor to the institution[. An entity exempt as provided in
9 this subdivision shall file a notice with the commission containing the information required in
10 section 339.1110];

11 (3) An appraiser that enters into an agreement, whether written or otherwise, with an
12 appraiser for the performance of an appraisal, and upon the completion of the appraisal, the
13 report of the appraiser performing the appraisal is signed by both the appraiser who completed
14 the appraisal and the appraiser who requested the completion of the appraisal;

15 (4) A state agency or local municipality that orders appraisals for ad valorem tax
16 purposes or any other business on behalf of the state of Missouri;

17 (5) Any person licensed to practice law in this state, a court-appointed personal
18 representative, or a trustee who orders an appraisal in connection with a bona fide client
19 relationship when such person directly contracts with an independent appraiser.

362.333. In addition to the powers authorized in section 362.332, a bank or trust
2 company [with authorized trust authority and created under the laws of this state] **created under**
3 **the laws of this or any other state or national bank, with authorized trust authority** may
4 transfer by assignment, for consideration or no consideration, some or all of its fiduciary
5 obligations that consist only of irrevocable life insurance trusts to [the Missouri trust office of
6 an out-of-state bank with trust powers or an out-of-state trust company] **any bank or trust**
7 **company with authorized trust authority**. The transfer of such irrevocable life insurance
8 trusts shall be subject to the provisions of this section and to all regulatory procedures described
9 in subsections 2 to 7 of section 362.332. On the effective date of the transfer of fiduciary
10 obligations under this section, the transferring bank or trust company shall be released from all
11 transferred fiduciary obligations and shall cease to act as a fiduciary, except that such transferring
12 bank or trust company shall not be relieved of any obligations arising out of a breach of fiduciary
13 duty occurring prior to such effective date.

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